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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD ALVARADO, et al.,
Plaintiffs,
v.
FEDEX CORPORATION,
Defendant.

No. C 04-0098 SI
Related Cases 04-0099 SI, 03-2659 SI and 03-
2878 SI

**ORDER GRANTING MOTION TO
INTERVENE AND GRANTING
MOTIONS TO QUASH SUBPOENA**

This order addresses the Motion of Plaintiff Class in *Satchell et al., v. FedEx Corporation et al.*, to Intervene Pursuant to F.R.C.P. 24 (Docket # 338), the Motion of Intervenors to Quash Defendant's Deposition Subpoena of Richard Drogan (Docket # 340), and Plaintiffs' Motion to Quash Defendant's Deposition Subpoena of Richard Drogan.¹ The Court has reviewed the parties' motions and FedEx's responses to these motions, and hereby enters the following order.

The Court GRANTS the motion to intervene, and GRANTS the motions to quash the deposition subpoena of Richard Drogan. The Court concludes it would be improper for FedEx to take Mr. Drogan's deposition in *Alvarado* and *White* because he has not been designated as an expert in *Alvarado* or *White*, he has been disclosed as an expert in *Satchell*, and fact discovery has closed in *Alvarado* and *White*. The Court agrees with FedEx, however, that because the *Alvarado* and *White* plaintiffs have not disclosed Mr. Drogan as an expert, they cannot use Mr. Drogan's report in any fashion. Plaintiffs cannot seek to prevent FedEx from deposing Mr. Drogan while at the same time using his report as a basis for their experts' analysis.

¹ This motion was filed with the Special Master and has not yet been e-filed. Plaintiffs' counsel faxed a copy of the motion to the Court. Plaintiffs' counsel is directed to e-file this motion so it appears on the docket.

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2 **IT IS SO ORDERED.**
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4 Dated: December 23, 2005
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Susan Illston
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SUSAN ILLSTON
7 United States District Judge
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